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S. HRG. 99-781

GENERAL ACCOUNTING OFFICE FINDINGS ON THE ENFORCEMENT OF THE BANK SECRECY ACT

HEARING

BEFORE THE

PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

JUNE 12, 1986

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

62-727 O WASHINGTON : 1986

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S401-35

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GENERAL ACCOUNTING OFFICE FINDINGS ON THE ENFORCEMENT OF THE BANK SECRECY ACT

THURSDAY, JUNE 12, 1986

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The subcommittee met at 10:06 a.m., in room SD-342, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware, and Senator Sam Nunn, Democrat, Georgia.

Members of the professional staff present: Daniel F. Rinzel, chief counsel; Eleanore J. Hill, chief counsel to the minority; Barbara Kammerman, deputy chief counsel; Sallie Cribbs, executive assistant to the chief counsel; Carla Martin, acting chief clerk; Susan Lebeaux, staff counsel; Paul Barbadoro, staff counsel; and Cindy Comstock, staff secretary.

[Senators present at convening of hearing: Senators Roth and Nunn.]

OPENING STATEMENT OF CHAIRMAN ROTH

Chairman ROTH. In recent years, the Permanent Subcommittee on Investigations has concentrated a substantial amount of attention on money laundering, a practice that undeniably feeds and fuels organized crime and drug trafficking. Today's hearing on the Bank Secrecy Act continues the subcommittee's longstanding interest in curbing the flow of illicit cash through legitimate banks and businesses.

As our previous hearings have shown, the Bank Secrecy Act, which requires the reporting of large cash transactions, can be a vital tool for law enforcement officials to use in combating criminal enterprises. I say "can be" because unfortunately, the previous hearings also showed that compliance with, and enforcement of, the act are themselves in need of major repairs.

Subcommittee investigations into Bank Secrecy Act violations in Boston and in Puerto Rico, as well as other areas, revealed shocking, widespread noncompliance with the act. Equally, if not more disturbing, was evidence of the inadequate attention paid by Federal regulatory agencies to enforcing the reporting requirements of the act.

I have an extensive statement which, in the interest of conserving time, I will not read. If there is no objection, we will include it as if read.

[Senator Roth's prepared statement follows:]

PREPARED STATEMENT OF SENATOR ROTH

In recent years, the Permanent Subcommittee on Investigations has concentrated a substantial amount of attention on money laundering—a practice that undeniably feeds and fuels organized crime and drug trafficking. Today's hearing on the Bank Secrecy Act continues the Subcommittee's longstanding interest in curbing the flow of illicit cash through legitimate banks and businesses.

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Subcommittee investigations into Bank Secrecy Act violations in Boston and Puerto Rico, as well as other areas, revealed shocking, widespread non-compliance with the Act. Equally, if not more disturbing was evidence showing inadequate attention paid by federal regulatory agencies to enforcing the reporting requirements of the Act.

In the Subcommittee's hearing on the Bank of Boston case, we heard evidence that examiners from the Office of the Comptroller of the Currency were unaware of the currency reporting regulation and, therefore, failed to cite the bank for massive non-compliance which involved failure to report $1.2 billion in international cash transfers.

In our July, 1985 hearing, we heard evidence regarding an undercover investigation of financial institutions in Puerto Rico that led to the arrest of 17 persons, most of whom were bank officials. This investigation also uncovered widespread non-compliance with the Bank Secrecy Act and allegations of cooperation among bank officials and drug traffickers to evade the currency reporting requirements of the Act. Again, there was evidence that examiners from the Federal Home Loan Bank Board failed to report incidents of non-compliance to the Department of Treasury.

Meanwhile, illicit cash supporting drug dealing and other criminal enterprises continues to flow through these gaps in compliance with, and enforcement of, the Bank Secrecy Act. America's criminals, according to government estimates, launder $40 billion annually. Clearly, bank officials and bank regulatory agencies need to clean up their acts, put these money laundering schemes through the wringer, and discharge their responsibilities effectively if we want these criminals to be washed up.

My grave concerns about non-compliance with the Bank Secrecy Act uncovered by this Subcommittee's investigations prompted me to ask the General Accounting Office to examine the Act's regulatory process in detail. Last October, the GAO reported to this Subcommittee its evaluation on how the regulatory agencies were doing their jobs of Bank Secrecy Act oversight. In general, GAO found that these agencies' efforts could stand considerable improvement.

But ensuring compliance with the reporting requirements of the Act is only one side of the money laundering coin. The primary purpose of the Act is to aid law enforcement officials in prosecuting criminal activities. If the Bank Secrecy Act is to assist law enforcement agencies in the battle against crime, the information that is generated by the Act must be effectively collected, processed, analyzed, and disseminated.

The Treasury Department has overall responsibility for implementing the Act. Today, we will hear again from the GAO concerning the Treasury Department's efforts to implement the Act, including its oversight of how the supporting agencies are carrying out their delegated duties. Among other things, GAO will tell us how the Department is managing and overseeing the transformation of the data gathered from the Bank Secrecy Act's reporting requirements into timely, meaningful information that law enforcement officials can use in prosecuting major crimes. This process is vital.

Scattered facts and figures are like unassembled parts of a fleet of tanks. Someone has to collect those parts, put them in proper sequence, build the tanks, and deliver them to the troops in good working order and in time for them to be used against the enemy. Here, of course, the "enemy" is organized crime and drug traffickers—formidable foes.

In reviewing the GAO's report, I was pleased to see several examples of how our law enforcement troops have effectively used Bank Secrecy Act information in prosecuting criminal elements. Unfortunately, we can't tell just how useful the Act has been because, according to the GAO report, the Treasury Department does not maintain that information. But I am convinced that getting more and better Bank Secrecy Act information to law enforcement officials would greatly enhance their crime-fighting arsenals.

In addition to GAO, we will also hear today from a Treasury Department official who will tell us what the Treasury Department is doing to improve the collection, assembly, and delivery of these critical information weapons in the war against crime. It appears that the wheels of Treasury grind exceedingly slow in this area, and we want to know why and what can be done to grease those wheels.

As I said earlier, this Subcommittee has been investigating money laundering and its connection to crime for several years, and we have concluded that the Bank Secrecy Act is potentially one of the most effective tools available to law enforcement in the war against crime. It is high time that responsible government officials maximize the effective use of that Act.

Chairman ROTH. I just want to conclude that my grave concerns about noncompliance with the Bank Secrecy Act uncovered by the subcommittee's investigation prompted me to ask the General Accounting Office to examine the act's regulatory process in detail. In October, GAO reported to this subcommittee its evaluation on how the regulatory agencies were doing their jobs of Bank Secrecy Act oversight. In general, GAO found that these agencies' efforts could stand considerable improvement.

But ensuring compliance is only one side of the coin. The primary purpose of the act is to aid law enforcement officials in prosecuting criminal activities. If the Bank Secrecy Act is to assist law enforcement agencies in the battle against crime, information that is generated must be effectively collected and processed.

The Treasury Department has overall responsibility for implementing the act. Today, we will hear again from the GAO concerning Treasury's efforts. Among other things, GAO will tell us how the Department is managing and overseeing this task.

Let me say that as I said earlier, this subcommittee has been investigating money laundering and its connection to crime for several years, and we have concluded that the Bank Secrecy Act is potentially one of the most effective tools available to law enforcement in the war against crime. It is high time that responsible Government officials maximize the effective use of that act.

Senator Nunn.

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. Thank you, Mr. Chairman. I am delighted to be here today, and I congratulate you and the majority staff for taking the lead in focusing on this Bank Secrecy Act. I know the General Accounting Office is going to have some interesting descriptions today of some of the problems, some of the management problems that exist in enforcing the act which can impact on law enforcement.

I would agree with your assessment that the Bank Secrecy Act is one of our potentially most potent weapons against people involved in illegal narcotics traffic. There are a lot of differences in the drug groups out there; they are from different ethnic groups. There is not any one with overall control of all of it. It goes on in a lot of different fashions through a lot of different countries.

But the one common denominator of drug trafficking is that all drug traffickers deal in money. If they didn't deal in money and money wasn't involved, they wouldn't be in business. That is why these money-related law enforcement tools are potentially, in my opinion, the most potent two that we have, not only the Bank Secrecy Act, but also the Internal Revenue Service.

As you know, Mr. Chairman, our subcommittee has been involved, I guess, in almost every facet of the effort to strengthen law enforcement in the narcotics area. We have looked at the border problem; we have been very much involved in the oversight of the FBI's movement into the drug enforcement area; we have been involved very much in the IRS revisions which enable the Internal Revenue Service to begin to be more effective in cooperating with law enforcement in this area.

We have also been very involved in giving the military jurisdiction to assist the law enforcement community.

In spite of all of those things, and there have been improvements, we still have a massive drug threat today that threatens the very moral fabric of our society. When I look at the statistics about our young people and the involvement in marijuana and cocaine, and when I look at the growth statistics in cocaine, it is apparent to me that not only do we have to strengthen our law enforcement efforts, but we are going to have to find some other way of cutting down on the demand for drugs.

The supply side is one facet, and the demand side is another. We have done more for law enforcement on the supply side, but for law enforcement the money end of it, I think, is the most important tool we can use.

I am interested in hearing from GAO on what I think will be a constructive critique of the Treasury Department's management of the BSA, and I congratulate you, Mr. Chairman, for taking the lead in this. Also, in advance, I extend my appreciation to the witnesses. I am not going to be able to be here for the whole hearing, but I have read the GAO's report on some of the details, and I look forward to the testimony.

Mr. Chairman, I would ask that my full statement be put in the record.

Chairman ROTH. Without objection.

[Senator Nunn's prepared statement follows:]

PREPARED STATEMENT OF SENATOR NUNN

Mr. Chairman, I am pleased to be here this morning as the Subcommittee focuses on law enforcement's use of the Bank Secrecy Act in money laundering and financial crime investigations. In holding these hearings, the Subcommittee, under your leadership, has pinpointed what I believe is an issue of increasingly critical importance to the American law enforcement community.

For some years now, our country has been grappling with an onslaught of drug traffickers and their dangerous and too often deadly merchandise: a growing spectrum of illicit narcotics. It is by no means an exaggeration to say that this activity seriously threatens the very fabric of our society. To meet this attack, government as well as members of the private sector have implemented numerous and innovative efforts against drug trafficking in recent years.

We have seen law enforcement resources combined and prioritized to focus on the drug problem, as in the establishment of the Organized Crime Drug Task Force Enforcement Program and the National Narcotics Border Interdiction System. We have seen the entry of the FBI into drug enforcement as well as a rededication of IRS resources and manpower, after an unfortunate absence, to the tracing of narcot-

ics profits. We have seen the resources, experience, and equipment of the military put to use in the war against drugs, through legislation originally introduced by Senator Chiles and myself in 1981. We have seen increased involvement in the private sector through a growing number of education and rehabilitation programs.

Despite all those efforts, as substantial and as laudable as they are, today we still face massive imports of drugs into this country. Moreover, the devastating effect of those drugs on our people, most particularly our young people, appears to be increasing. According to statistics released in April 1986 by the Alcohol, Drug Abuse and Mental Health Administration, nearly two-thirds (61%) of all American high school seniors use an illicit drug at least once before they finish school; 40% have used drugs in addition to marijuana. Cocaine has been tried by at least 17% of seniors in the Class of 1985—the highest rate ever observed so far in the National High School Senior Survey. The statistic for total emergency room cases involving cocaine more than tripled between FY 1981 and FY 1985 in the 26 major U.S. cities that report to the Drug Abuse Warning Network. Total deaths involving cocaine also almost tripled in 25 cities in that same time period.

Those are truly sobering statistics for all Americans. Obviously, we are still not doing enough to win the war against drugs. We must continue to develop and improve our drug enforcement programs. I believe that the Bank Secrecy Act, if used effectively and to the full scope of its potential by law enforcement, can make a major contribution to that effort.

From all accounts, drug traffickers, as well as other major organized crime figures, have one thing in common: they deal in and benefit from huge amounts of money, astronomical profits quickly and routinely gained as a result of their activities. The drug industry in this country is "big business" in the truest sense of the term: current estimates place yearly profits from illegal drugs at $110 billion in the United States. In light of those figures, the potential usefulness of the Bank Secrecy Act to drug enforcement is perhaps greater today than at any time since its enactment in 1970. Used to its fullest advantage by law enforcement, it can be an excellent method by which to identify and convict major drug traffickers by the tracing of their illegal profits. The reports and information which the Act mandates, if efficiently utilized by law enforcement agencies, can provide a wealth of assistance to the drug enforcement effort.

GAO has, at the Chairman's request, attempted to evaluate just how well the Bank Secrecy Act is being utilized by our law enforcement agencies. I am interested in hearing GAO's testimony this morning on the results of that evaluation. As I understand it, the GAO report suggests some serious and costly shortcomings in the management and coordination of the Act and the information it requires. Of perhaps greatest concern is GAO's finding that there is a lack of adequate management initiatives at the Treasury Department in order to insure that the Act is used effectively by law enforcement agencies. I am most interested in hearing from Mr. Keating, Assistant Secretary for Enforcement, for his comments on the problems raised in the GAO report.

Mr. Chairman, I want to commend you and your staff for your fine work in focusing the Subcommittee's attention on what may be a potentially powerful but too often misunderstood and underused source of assistance for our law enforcement community. Hopefully, this hearing will result in greater compliance with the Act as well as more effective use of the information which it generates. We simply can no longer afford to sidestep even a single tool in the fight against drug trafficking and organized crime.

Mr. Chairman, I again congratulate you on your efforts in this area and look forward to this morning's testimony.

Chairman ROTH. I am very happy to welcome today Mr. Anderson, Mr. Outlaw, and Mr. Vialet. I am always able to mispronounce at least one name.

Gentlemen, will you please rise? Under our rules, you have to be sworn. Thank you. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. ANDERSON. I do.

Mr. VIALET. I do.

Mr. OUTLAW. I do.

TESTIMONY OF WILLIAM J. ANDERSON, DIRECTOR, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOHN VIALET, SR., GROUP DIRECTOR, GENERAL GOVERNMENT DIVISION, AND TIM OUTLAW, EVALUATOR IN CHARGE, WASHINGTON REGIONAL OFFICE

Chairman ROTH. Thank you, gentleman. Mr. Anderson, if you could, we would appreciate your summarizing your findings. Your full statement,[1] of course, will be incorporated as if read.

Mr. ANDERSON. Thank you very much, Mr. Chairman. Let me first explain who these other people are. John Vialet, to my right, is a group director in the General Government Division, which I am the Director of. He is concerned with our work in the drug area.

Tim Outlaw, to my left, was project manager on this most recent work we did for you, where we tried to find out what was happening in the law enforcement community and how effectively Treasury was managing this whole process.

I come prepared to put my statement in the record, Mr. Chairman. I jotted down a few salient points I would like to make, and if you will let me, bear with me while I run through those. I am going to come back to something you just said. I was going to start off by saying, here we are, 16 years after the passage of the act, and its true potential has not yet been realized.

But having said that, it should be noted that there has been noteworthy progress in the last year. This subcommittee, I think, deserves much credit for prodding the responsible agencies to start putting their house in order with respect to implementing the act.

Before discussing the results of our latest work in our behalf, let me present a broad picture of who does what where in connection with Bank Secrecy Act activities. It helps keep it in my own mind, as well. It also portrays the big job that Assistant Secretary Keating has, because there are a lot of people involved in Bank Secrecy Act implementation.

As you are aware, there are three principal documents that we are concerned with here. The first of these is the currency transaction report. I note that Mr. Keating says about 3 million of those are estimated to be submitted this year, about 1.8 million last year. So there are a lot of them floating around.

I also have the so-called FBAR's, the foreign bank account reports, an annual report on overseas holdings of monetary and securities and other types of instruments.

Referring to the chart that we put up here, those documents are coming in from around the country, the CTR's and the FBAR's, and they are all going to the IRS Detroit Data Center. There, they are put on tape, and a copy of that tape is shipped to Customs, Franconia Computer Center.

On January 1 of this year, they had about 5 million CTR's and FBAR's in the data base that was available to law enforcement officials across the country.

The other principal instrument we are talking about is the CMIR, the currency and monetary instrument report. Customs offi-

[1] See p. 25 for Mr. Anderson's prepared statement.

cials are generally the ones preparing this around our borders, primarily, although our airports, also, obviously serve as ports of entry. I understand there are about 300 or so ports of entry where you might have a customs official preparing one of those where we had a flow of currency above $10,000.

Those go directly to Customs' San Diego Computer Center; the tape is created; and then to Franconia.

Having said that, let me talk a little bit about the number of institutions that we are really dealing with in terms of the generation of these reports. I count at least 46,500. I started off with 14,800 banks; 15,000 credit unions; 3,250 thrifts; 11,400 broker dealers that SEC and the SRO's are responsible for; and the President's "Report on Organized Crime" cited a figure of 2,000 or more entities that IRS was responsible for. I don't hold too much stock in that. I don't think we know how many. That is one of the problems, how many institutions that IRS really should be looking at, pawnbrokers, currency exchange houses, people that deal in metals of various types.

In any event, the ones that we have identified add up to about 46,500. So there is a lot of people to be, a lot of institutions to be concerned about.

The actors in all of this: First, we do, as you know, have the Assistant Secretary for Enforcement and the relatively newly created Office of Financial Enforcement.

In Customs, there are two principal organizations that are concerned with making the act do something in behalf of law enforcement. First, in the Office of Intelligence, in Washington, we have what's called the Financial Analysis Division. The Financial Analysis Division is supposed to be looking at all these reports, looking at that data base, as well as tapping other intelligence data bases that are available to it and coming up with leads, proactive leads out to the law enforcement community and even out of the regulatory agencies in some fashion.

I'll be speaking a little later about the utility of those reports as viewed by the law enforcement community. We also, within the Office of Investigations, have the Information Management Branch. If you were an FBI agent in some part of the country and you wanted to tap that data base, right now, unless you had an under-the-table arrangement with the local customs agent or you were on a task force that has a customs agent on it, you would have to go back to Washington to this Information Management Branch, in writing, and get permission to obtain some information out of the data base.

So in any event, those are the two principal customs actors. Obviously, they have the San Diego Data Center, and they have the Franconia Computer Center.

At IRS, we have the Detroit Data Center, which obviously plays a very important role in this. I won't bother naming all the financial institutions, regulatory agencies; you know them well. You know the problems on them that we reported on last October when we testified before you.

The law enforcement community, FBI, DEA, various joint task forces, including both of the above and others, as well, I don't have a number on those, the number of potential inquiries that might be

made, but I can tell you that we are informed that currently, there are about 90,000 or so inquiries or transactions involving this data base that's been created as a result of the Bank Secrecy Act.

So it looks as though the law enforcement community knows it is there and is trying to get information out of it. I think the principal users are probably Customs and IRS, who have the terminals right there, and it is as easy as punching it in, rather than preparing a written request like the other people do.

Let me talk about the major objectives, the major aspects of the act and what the Congress expected, completeness of reporting. In 1980, there were about 230,000 CTR's filed; in 1985, 1.8 million; about 3 million, apparently, this year, considerable progress, undoubtedly, as a result of the Bank of Boston and other well-publicized enforcements. I think this subcommittee did its job in publicizing those enforcements.

In fact, it seems that we had overreaction. Apparently, some of the institutions, by cutting back on the size of their exempt lists, are unnecessarily putting a lot of documents into the system. This is something that Treasury and the Office of Financial Enforcement are going to have to be concerned about. But we still can't conclude, despite the tremendous increase that everything is right on the examination side, a lot more CTR's and CMIR's coming forward, but given the difficulty of examining for compliance with this act, as we brought out in our testimony before you last October, we really can't be sure that we are getting everything we should get. With those 46,500 out there, there is just too much vulnerability and too little visibility over what individual institutions are doing.

Physical processing of reports. Had our report [1] to you been a couple of months earlier, we would have said, "big problem in Detroit, big backlog, 1.3 million documents unprocessed, nothing since August of last year."

Well, now I understand that they've caught up with that backlog. It has been processed, and that they are now current. So it appears as though the physical processing of the reports is no longer a problem.

Analysis. In targeting this group that Customs has, the Financial Analysis Division, apparently, still is not achieving the potential that it could but is doing a lot of good things. The reports were found useful, but on the other hand, a number of the law enforcement people that we spoke to kind of characterized it as good background information but really not of too much tactical use in a lot of instances.

But on the other hand, it is obvious from the work that we did in California and Florida that—and we include a number of examples in our report to you, Mr. Chairman—the law enforcement community is making good use of the Act and the data that it contains.

Treasury does have a big oversight task. We concluded, in our work review, that the Department needed to do more if it was to effectively carry out its management responsibilities. There has been progress against the problems that we spoke about to you last

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[1] Available through the General Accounting Office.

October. Let me run down some of the things that we consider as improvements, and then I will tell you what we think remain as outstanding problems.

We have established a permanent interagency working group that has improved and is still in the process of improving the examination procedures. They are now looking at the international transactions as a matter of course, wire transfers, getting down and interviewing employees, trying harder to get some more insights into effectiveness of compliance.

There has been an increase in the civil actions. From 1970 through 1984, there were 7 civil actions and penalties of $800,000, 7 actions over that 14-year period. In 1985 alone, 76 reviews underway; there have been eleven actions totaling $5.1 million in 1985 alone.

The Office of Financial Enforcement was created to try and bring about greater management focus within the Office of Assistant Secretary for Enforcement. Problems remain.

First, the first problem, and I will get back to the Office of Financial Enforcement; it has been created, but it has yet to be staffed properly. It still has the same two people, not the same two people personally, but two staff members as it had for some time now. It was to have an authorized strength for two more, but the positions remain unfilled, and we don't think the two there are adequate to help the Assistant Secretary get his oversight task done.

We still don't have a process for optimum targeting of those examinations that are made by the financial regulators. That was a problem we spoke about last time. We were doing a little at an awful lot of examinations and really not going anywhere in sufficient depth to come up with anything. I think of the 76 cases we spoke about earlier currently under review, only one, I believe, Crocker, came about as a result of audit.

We are just not doing it right. We need a process for targeting. I know that the working group is considering some methods on how to use currency flow data and other types of activity, but it still remains an unrealized opportunity.

Third, Treasury does not have comprehensive information of what is being done by the various involved agencies, much less how well these agencies are doing all the things they're responsible for.

If I was Assistant Secretary Keating, I'm not sure exactly how I would proceed, but I think I would appreciate the magnitude of my task in understanding really what Customs is doing out there in correcting those CMIR's, how effective they are operating in trying to identify. I know they are doing a lot of good things in this regard, I have to concede that, but in terms of what the problem is and in terms of what could be done, I don't know how well they are doing.

I still don't know how well the examination process is being carried out at SEC, for example, or other regulators. There are uncertainties, and I just don't know whether the Financial Analysis Division is doing the job that it should be doing in coming up with good leads. I know we are doing a lot of good things, but is it enough, and could more be done? So in any event, I see a problem there.

Fourth, we haven't solved the access problem yet, but we are working on it. That is the problem that results in a lot of law enforcement officials having to put things in writing and not being able to just tap in and get a quick response to a need that they have for a lead on whether the data base even contains information on a person.

We have unresolved legal issues that could be addressed in any number of bills that the Congress is considering right now in trying to address the problem of the split deposits, the problem that, basically, apparently, the legislation extends to "other participants" in a transaction. And right now, the regulations as written by Treasury preclude those people from culpability for their role in trying to beat the system.

IRS is another problem, the IRS and the discharge of its responsibility. It has been noted that last year, they were putting in about four staff years. It may or may not be enough, but I don't know. We really don't know what the universe of responsibility is, but it is something that needs to be explored. The same problem exists at the Securities and Exchange Commission and the self-regulatory agencies.

So I guess we see that we are finally starting to make some progress, Mr. Chairman, but further improvements are still needed, and we have yet to realize the potential of the Act.

We will stop there, and the gentlemen here and myself will try and answer any questions you or Senator Nunn or anyone else may have.

Chairman ROTH. Thank you, Mr. Anderson. I gather that your overall estimate is that there has been, let me ask you, substantial, some or minimal improvement in the administration of the law?

Mr. ANDERSON. I would say there has been some improvement. I don't want to overstate it, because there is too much that remains to be done, but we are certainly generating considerably more reports than we did in the past. I don't think that that is so much administrative improvement as a publicity improvement.

We have strengthened the examinations. We have improved the examination procedures of the regulatory agencies, but I don't know how critical they are to making the whole thing work anyway. I don't know whether even improved examination processes are really going to enable us to identify the bad folks out there in the financial community.

So I think some improvement; I don't want to overstate it.

Chairman ROTH. I think you said in 1 out of 70 cases, leads were initiated by the data base?

Mr. ANDERSON. Out of 76 cases that are currently under review for civil review over at Treasury, a la Bank of Boston and Shawmut, only one was, other than that institution, voluntarily coming forward. That one was Crocker.

In all of the other institutions, it wasn't a result of examination or regulatory review that identified it. It was them coming voluntarily forward, primarily after Bank of Boston went public. Only one, Crocker, was the result of an audit finding in the result of an institution being identified.

[At this point, Senator Nunn withdrew from the hearing room.]

[The letter of authority follows:]

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Bank Secrecy Act Enforcement to be held on June 12, 1986.

WILLIAM V. ROTH, JR.,
Chairman.

SAM NUNN,
Ranking Minority Member.

Chairman ROTH. One of my concerns last year was the inadequacy of the audits being made in the institutions. It became pretty clear, after listening to some of the witnesses, that the auditors, bank examiners, whatever you want to call them: One, had very little or no familiarity with the requirements of the law; and second, they didn't look upon it as a very important part of their procedures if you took the book and the pages that they had to follow through. This is sort of a minor requirement.

Has that changed?

Mr. ANDERSON. I'm not—I can't attest that it's changed. I can attest that there have been promises by the regulators that things will change; that, in fact, that people are going to be trained.

Chairman ROTH. Let me ask you. This is a year later. What do you mean that there are promises that things will change?

Mr. ANDERSON. Well, we have not been out to verify that these things have been done, sir. They may have been done. Maybe Mr. Keating will have more information on that, but in commenting on our report to you, these agencies have said: We are now training our examiners. And they are telling them to do more, to do a better job of documenting what they have done and do the other things that we found wanting in our work for you last year.

Chairman ROTH. We really don't know, then, whether or not; because to me, that is a key part of the problem.

Mr. ANDERSON. I agree totally, sir, and that goes back to what are the management responsibilities of the Department of the Treasury in that regard? We did a look last year. GAO did an independent audit and found problems at that time. I think there is an accountability for Treasury right now. Promises have been made, as a result of this interagency working group, to straighten up some of the problems that we found. I think they have a responsibility to assure themselves that it is happening.

Chairman ROTH. It bothers me. Here we are 1 year later saying we are still talking about it. The kind of a problem that it is necessary to give some education and training doesn't seem insurmountable, does it?

Mr. ANDERSON. No, it doesn't, sir. I think the wheels have ground slowly in all of this. I gather from what they are telling us that in the last couple of months, things are starting to happen.

Chairman ROTH. Let's go a little bit to the paper processing into the data bank. Would you, again, explain to me exactly how much help that has been in enforcing the law? How many cases have been able to be initiated from an analysis?

Mr. ANDERSON. This is a very significant piece of missing information that is not—that the Department of the Treasury does not have. We do not know what the sum of the use of this data has been.

We have no processes for getting reports back from the law enforcement community. Just a few months ago, Customs, for the first time, started asking for feedback on these analytical reports that it was sending out to people so they could find out whether it was of any use to them, so they could discover whether there should be more of the same or less or something different.

All I can give you right now are anecdotes, and we did go to California and Florida and did speak to people in the law enforcement community there. We found, in fact, the data had proved useful in a number of cases; that it had proved useful in prosecuting and obtaining leads and prosecuting narcotics dealers.

Chairman ROTH. One of my concerns is that we keep adding more papermaking requirements.

Mr. ANDERSON. Yes, sir.

Chairman ROTH. The recordkeeping that is necessary to be able to develop this kind of information, is that going to require a lot more papermaking, with a lot of employees involved? If we have more employees, I really want them on the front lines where the action is. I am not interested in seeing a major management explosion to oversee what is being done.

In the private sector, we keep hearing more and more can be done by computers and modern techniques. How can this kind of information be gathered, collected, and analyzed without putting tremendous paperwork requirements on those who are supposed to be doing the job of ferreting out the crooks?

Mr. ANDERSON. Right now——

Chairman ROTH. Go ahead.

Mr. ANDERSON. I was going to say that right now, the biggest requirement that is put on anybody are those financial institutions that are preparing the CTR's. That's really where the burden lies right now, and obviously, it's a cost to society that nobody is cranking into this analysis of whether the whole affair is really paying for itself. In fact, in the 1981 report was the first look that we did of Bank Secrecy Act implementation, and one of the things that we suggested to the Congress at that time was that rather than having a permanent authorization, they might want to periodically reauthorize this and assess whether, in fact, it is all working and competent; derive an analysis of whether the costs were really producing.

Chairman ROTH. Let me ask you, on the basis of your report and the work that you did, what do you think?

Mr. ANDERSON. Right now, I would have to say that it looks to me that it is worthwhile. The bottom line is: we are making an awful lot of people do an awful lot out there; 3 million CTR's will be prepared this year, somebody putting pencil or pen to a piece of paper.

But when I think of the value to society of being able to get to some of these drug dealers, I guess on that balance, I would say that it would make some sense.

I would say that right now, as far as once the data is there, we have a pretty good system. We have a pretty good system right now for making that, for using computers to make that data available to the law enforcement community.

The only unnecessary paperwork right now is this problem: The law enforcement people have to go down in writing back to Customs headquarters to obtain access. I think when that problem is solved, I don't see a problem within the Federal Government of excessive paperwork once those CTR's and those CMIR's are converted to tape and put into the computer.

Chairman ROTH. I appreciate you gentlemen being here today. I am interested in having the General Accounting Office continue to follow the developments here. The one thing that I think is important, because as I say, I am always concerned that reports come back, to be candid with you, requiring more paperwork, more managing, there is always more that can be done, but we have got Gramm-Rudman, and we have got to learn how to live with what we have got.

In the private sector, they tell me that they are doing a lot more with computers and so forth and meeting the needs of analysis. So one of the things I am going to be interested in in the future is how we can simplify these procedures. I don't want to put a lot more people on to manage. If I want them anywhere, I want them, as I say, on the front lines where the action is: How can we do a better job of managing it and training and following through to make sure that these requirements are effected?

Gentlemen, I appreciate all three of you being here today.

Mr. ANDERSON. Thank you very much, Mr. Chairman.

Chairman ROTH. I look forward to continuing to work with you.

Our next witness is Francis Keating, who is Assistant Secretary for Enforcement, U.S. Department of the Treasury. Welcome, Mr. Keating. It is a pleasure to have you here today. If you would continue to stand?

Mr. KEATING. This is Mr. Queen, Senator, who is the Deputy Assistant Secretary.

Chairman ROTH. Please raise your right hand. Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KEATING. I do.

Mr. QUEEN. I do.

TESTIMONY OF FRANCIS A. KEATING II, ASSISTANT SECRETARY OF THE TREASURY, ENFORCEMENT, ACCOMPANIED BY DAVID QUEEN, DEPUTY ASSISTANT SECRETARY OF THE TREASURY, ENFORCEMENT

Chairman ROTH. Thank you, Mr. Keating. Am I correct in my understanding that you have been in this current job something like, what, 6 months or so?

Mr. KEATING. That's correct, Senator.

Chairman ROTH. We would ask you to proceed with your statement.[1] I would hope that you would summarize it, and we certainly, indeed, welcome having you here today.

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[1] See p. 37 for Mr. Keating's prepared statement.

Mr. KEATING. Thank you, Senator. At this time, I would like to reintroduce to the committee Mr. David Queen, who is the Deputy Assistant Secretary for Law Enforcement.

The two of us appreciate the opportunity to appear before you, and I have a brief revision of my prepared statement which I provided to the subcommittee.

At the outset, Senator, let me express to this committee the Department's commitment to continue to improve the utilization of the Bank Secrecy Act as a major weapon against drug trafficking and organized crime. I would like to highlight to the subcommittee the initiatives that Treasury has taken over the last year in pursuit of that goal. We are proud of our progress to date, but we also recognize that improvements are in order.

I am not in a position today to respond to the specific criticisms of the GAO report. We received a copy last evening, and I am afraid all I have been able to do is to review the executive summary and a number of the findings. However, I want to assure you that we shall thoroughly evaluate all the recommendations in the report, reply in writing as appropriate, and take remedial steps where necessary.

The enforcement initiatives, Mr. Chairman, that I shall discuss today fall into four brief categories: First is the improved coordination with and supervision of the agencies to which Treasury has delegated Bank Secrecy Act enforcement authority.

Second, I shall discuss the revisions to our regulations and the legislative improvements to the act on which Treasury urges favorable action.

Third, I shall address the question of Treasury resources dedicated to ensuring compliance; and, finally, summarize our assessment of civil penalties against financial institutions for past noncompliance.

I shall begin with the measures Treasury has taken, Mr. Chairman, to improve its supervision of and coordination with the agencies to which it has delegated Bank Secrecy Act responsibilities. Our primary initiative has been the standardization of examination procedures that are used for compliance examinations by the various agencies, including the IRS, the Securities and Exchange Commission, and the bank supervisory agencies.

As many of the civil penalty cases with which we have dealt and the *Bank of Boston* case have demonstrated, the previous procedures were not sufficient to ensure that violations of the act would be detected. These procedures need to be improved, and a number of other issues had to be resolved to make compliance examinations more effective.

These issues include the maintenance of detailed work papers; the sharing of information among the various bank supervisory agencies; and the application of standard examination procedures. To address these matters, we held a series of meetings in the Federal bank supervisory agencies and others who have an interest in improving those procedures. As a result of those consultations, we issued final instructions on examination procedures to the supervisory agencies in April of this year.

We fully expect that the improved and aggressive examination that has resulted from the adoption of the new procedures will

foster improved compliance. Our experience in the improvement and standardization of examination procedures made clear to me the need for an ongoing interchange of ideas between us and the agencies to which we have delegated enforcement responsibility.

Therefore, we convened a permanent Treasury Bank Secrecy Act Enforcement Advisory group under Mr. Queen's chairmanship, consisting of supervisory level representatives of Treasury, Customs, IRS, and the SEC.

One of the first tasks assigned to this group is to revise the standard procedures for referral of penalty cases to Treasury. A second task is to work with the Office of Financial Enforcement to develop a pamphlet for distribution to all banks on procedures for exempting customers from the reporting requirements of the act.

It is anticipated, Mr. Chairman, that this pamphlet will address the problem Mr. Anderson discussed about the unnecessary, in some cases, CTR filings as a result of banks filing everything as opposed to availing themselves of exemptions that are available.

The first draft of this pamphlet is due on June 18. In the future, among the tasks of the working group will be to develop guidelines for more comprehensive periodic reports to Treasury on the agencies' Bank Secrecy Act enforcement. In this way, Treasury will be better advised of the strengths and weaknesses of the agencies' programs and will be able to direct remedial measures. The group also will develop a formal published ruling system for dissemination of interpretations of the act and the regulations.

On the subject of the Bank Secrecy Act regulations, we have strengthened these regulations in several respects and have currently under discussion a major regulatory revision package. On May 7, 1985, regulations became effective that designated casinos as financial institutions subject to Secrecy Act reporting requirements.

Another amendment was published as a final rule last summer under which Treasury is able to require financial institutions to report specified international transactions including wire transfers for a defined period of time. The Internal Revenue Service Criminal Investigations Division has sent to my office for approval a pilot program for the initial use of this authority. That is under review at this time.

In February of this year, we circulated a major regulatory revision package to the bureaus within Treasury with Bank Secrecy Act responsibility and to the Justice Department. This package is comprehensive and has undergone much revision and scrutiny.

Among the highlights of these proposed regulatory revisions are the following: First, Treasury proposes to expand the types of businesses that banks may exempt from currency reporting without special exemption requests to us.

Second, the regulations will specifically provide that a financial institution must, for reporting purposes, aggregate all currency transactions of which it is aware that occur on a single day.

Third, there will be a proposed new reporting requirement to address the well-known problem of "smurfing," whereby individuals take crime proceeds and amounts under the $10,000 reporting threshold to various banks and purchase a number of cashier's checks. We will require that banks maintain records of each cash

purchase of monetary instruments; for example, a traveler's check or cashier's check in excess of a set amount.

Fourth, we propose that customers attest to the accuracy of the information on which a bank is basing an exemption of that customer's transaction from currency reporting.

With respect to legislative initiatives, Treasury worked with the Department of Justice to develop S. 1335, the Money Laundering and Related Crimes Act. Besides a substantive criminal offense for money laundering, the bill contains a number of critical revisions to the Bank Secrecy Act. Under that bill, the Secretary, for the first time, would have summons authority, both for financial institution witnesses and for documents in connection with Bank Secrecy Act violations. This authority, we believe, is essential to investigate violations and to assess the appropriate level of civil penalties once the violation is discovered.

In addition to the administration's money laundering bill, there is another initiative on which we urge early and favorable action. That bill is S. 2306, introduced by Senator D'Amato, and H.R. 4753, introduced by Congressman Pickle.

This bill would prohibit structuring of currency transactions to avoid the $10,000 currency transaction reporting requirement. It also provides seizure and forfeiture authority for currency related to domestic currency violations or interest in property traceable to that currency. Currently, there is forfeiture authority only for cash and monetary instruments.

Mr. Chairman, the Bank Secrecy Act has proven beyond all doubt its effectiveness as a law enforcement tool against drug trafficking, organized crime, and the illicit financial activity that supports it. The investigations the Treasury Department and the Department of Justice have conducted, particularly those under the President's Organized Crime Drugs Enforcement Task Forces, have relied upon the Bank Secrecy Act data and the analyses of that data that Treasury has prepared.

In approximately 3 years of full operation, these task forces initiated 1,350 cases and resulted in the indictments of 8,649 individuals, 3,678 of which have been convicted. In my view, the amendments to the BSA which I previously shared with you are critically needed, so we can more effectively handle our responsibilities under the act.

I would now like to address the subject of resource commitment brought up by Mr. Anderson. In July 1985, the Treasury Department established the Office of Financial Enforcement as the unit within my office, primarily responsible for administering the Bank Secrecy Act.

The office has broad responsibilities for the compliance activities of all agencies that have been delegated responsibility under that act. In April, Mr. Robert Stankey, who had been the Acting Director, retired. Since then, we have been in the process of interviewing a replacement. As I speak, there are two finalists for that position. That would fill the third of the four positions authorized for this office. The fourth has already been filled with, in my regard, one of the best analysts the Customs Service could provide us, Mr. Pete Caputo.

Another significant development has been a very substantial commitment of resources by IRS, particularly with respect to the processing of currency transaction reports. As you know, following the publicity surrounding the *Bank of Boston* case, there was a dramatic upsurge in the filings of CTR's. Mr. Anderson has shared with you the particulars of those statistics.

The backlog has now been eliminated, as he has indicated. All CTR's received through April 1986 have been processed. The function of granting special exemptions to bank customers from the reporting requirements was also delegated to IRS by my office late last year. All exemptions were previously granted by the Office of Financial Enforcement and its predecessor office.

This function is one of those being performed by the Detroit Data Center, where seven persons have been assigned responsibility for this review. Because of those resource commitments, we feel this will be more efficiently handled.

Now I would now like to discuss Treasury's imposition of civil penalties against financial institutions for past noncompliance. In the wake of the publicity surrounding the *Bank of Boston* case, and in good measure, as a response to congressional interest and hearings, over 60 banks and bank holding companies have come forward to Treasury with past violations of the act. Some have come forward solely on their own initiative. Others have done so as a result of bank regulatory examinations, particularly those of the Comptroller of the Currency. Today, 18 civil penalties have been assessed under title 31, ranging from $75,000 to $4.75 million in the case of the Bank of America.

Other cases are under review at this time, and we anticipate assessing additional penalties shortly. In many instances the cases are taking several months to conclude because of the time required for banks to conduct an examination of the past compliance and to reconstruct past unreported transactions for late filing of currency transaction reports.

We continue to encourage financial institutions to come forward to disclose past violations. Nonvolunteer banks must be dealt with more severely. Banks that become aware of past noncompliance and make no effort to contact Treasury are running a serious risk. We are now working to uncover these nonvolunteers. This effort will ultimately depend heavily on the support of the bank supervisory agencies.

We believe that Treasury's vigorous enforcement of the Bank Secrecy Act, including the imposition of publicly announced, substantial civil penalties, where appropriate, has contributed to enhanced awareness of the requirements of the act.

As a consequence, and as confirmed in our dealings with many banks and by the upsurge of CTR filings, we believe that overall compliance has improved and that compliance has become a high priority with many financial institutions. In closing, I want to emphasize, Mr. Chairman, that this is a time of activity and innovation in the Treasury's Bank Secrecy Act program. I am pleased to have the GAO imput in this ongoing process.

I am firmly committed to an aggressive enforcement policy that ensures that all information required under the act is retained or reported.

At the same time, I am also committed to the efficient and effective use of that information. Mr. Chairman, I would like to acknowledge the substantial contribution that this subcommittee has made to our progress in improving the administration and enforcement of the act. I look forward to continuing to work with you and other members of the subcommittee.

This concludes my formal remarks, and I would be pleased to answer any questions that you might have.

Chairman ROTH. Thank you very much, Mr. Keating. As you heard me say earlier, I am a strong believer that this legislation is key to solving the problem of drugs and money laundering. Yet, having said that, as I understand it, 1 out of, I think, 76 cases resulted from bank audits. The other 75 cases have really come from voluntary action on the part of the banks themselves. Is that true?

Mr. KEATING. Mr. Chairman, I think that it is difficult to say what brought somebody forward. It is true that we have true volunteers in this mix; people who are willing to come forward and confess their noncompliance. But by the same token, a number of these people, Mr. Queen might be able to detail some examples, came forward as a result of or were encouraged to make fuller disclosures because of bank examinations or the publicity surrounding the *Bank of Boston* case and publicity surrounding the actions that we took with respect to other banks.

The message has gotten out. We have gone, as you know, Mr. Chairman, from CTR filings of some 700,000 in 1984 to 1.8 million last year and some 3 million this year. That indicates the banks certainly have gotten the message. As a result of that message, we have made a number of civil cases.

As Mr. Anderson has indicated, criminal cases are being made, as well.

Chairman ROTH. Unquestionably, the publicity and the recent activity in this area has had a beneficial impact, but I must confess, you do begin to wonder whether all this papermaking, redtape, and regulatory revisions is really having much of an impact based on the record. Perhaps it is. But are you satisfied with the kind of analysis that is now currently being made of these reports as they funnel through?

Mr. KEATING. Mr. Chairman, as the GAO report indicated, there is room for improvement. The Office of Financial Enforcement in my office is a new office. But, because of the *Bank of Boston* case, there is now a new, where in the past, there was not, significant interest in compliance; because of the fact that we have just recently provided advice as to standard examination procedures; because of the fact that new resources have been committed to bringing this backlog up to date and new resources have been committed to provide analysis of this information, we think that we are making significant progress.

Obviously, there is more progress to be made. The law enforcement community informed me that they think the information is significantly beneficial, and they would like to continue, for us to assemble and refine the uses of the information.

Chairman ROTH. I recognize you have only been there 5 months, and I also recognize the law has been on the books for 15 years, and very little was done on it until it was made a much publicized

event last year. But do you feel that once you are able to get whatever reforms you are proposing that the analysis of these reports, the data collection and data analysis, will really result in our being able to determine where there are potential trouble spots?

Mr. KEATING. We believe so, Mr. Chairman. As a matter of fact, in the Office of Financial Enforcement, within my office, we now have a linkup to the data base, something that we did not have until very recently. The analysts in my office are evaluating the implementation of a program which will permit them to target noncompliance by analyzing CTR volume. If we conclude, for example, that in Cincinnati, there are far fewer CTR's being filed or there has been an explosion of CTR activity in the recent past, we know where to target our investigative resources.

These are all new initiatives, and we think that you will see some tremendous progress as a result of the implementation.

Chairman ROTH. What will you do with that information? Let's assume that you find in Cleveland that there is a significant change. What will be the next step?

Mr. KEATING. Well, the next step, of course, is to refer that information from our analysts to the investigators or the regulators as the case may be—who will handle the task of going into these institutions and determining compliance.

Chairman ROTH. Are you doing that now? In the last month, how many times has this happened that you referred a sensitive area to the law enforcement people?

Mr. KEATING. I believe I will let Mr. Queen handle that. Perhaps he is in a better position to give you an answer.

Mr. QUEEN. Mr. Chairman, in the preceding year, the customs analysts referred approximately 170-odd cases to IRS that appeared to have some merit. Obviously, they cannot make a final conclusion based on the data. Overall, about 250 referrals were made by the Customs Service.

In terms of the kind of analysis that we are looking for in the future, it is not only improvement of the methodology that Secretary Keating referred to, but really, to address it in three areas: One is an analysis in general cash-flows and currency excesses, which will allow us and the Justice Department to identify countries which may be external sources of money laundering and to which we then react by attempting to work out treaties and arrangements.

Chairman ROTH. Let me ask you one question, and then you can go back. I take it what you are saying is that you still are working on the process. When do you think that will be fully implemented?

Mr. QUEEN. Mr. Caputo and a staff member are working a lot with Customs to attempt to develop, I guess for want of a better term, computer models that will allow us to maximize the resources of our finite number of auditors.

I hate to give you a date, but it is actively being done, and we share your sense of urgency.

Chairman ROTH. A year has gone by since we had our last hearing, and we come here again; we are always talking. It galls me that we are talking about models; we have now a new office, I understand. I think urgency is critically important, and we are going to continue to have hearings. But I don't want to come back in an-

other year and hear people saying, "We are still studying and we are still setting up models."

I want to know what we are, in fact, doing.

Mr. QUEEN. A model is really a method of analysis, and that is, by being able to systematically review the data, we will be able to separate the wheat from the shaft. Obviously, as you can imagine, the overwhelming majority of the CTR's filed reflect legitimate cash activity. Obviously, we have to get things out of the analysis pool as quickly as possible.

One of the difficulties has been in the preceding months is that, especially with the Internal Revenue Service, is that the thoroughly predicted enormous influx of CTR's required a massive and temporary shifting of resources. While that backlog was being cleared up, naturally, the Customs Service data base was deprived of prompt and current use of data because the data was part of the backlog. That having been cleared up, I think both sides can now attempt to address better use of the data.

One of the things that the Customs Service is doing is disseminating access to the data base to field offices to address the problem that Mr. Anderson referred to, and the Internal Revenue Service is adding 38 terminals in the field office that will have access to the data.

I don't know that that is the final solution, but it certainly is an improvement in attempting to cut down the number of individuals through whom requesters must go.

Chairman ROTH. Let me go back to you, Mr. Keating. What kind of cooperation are you getting from the various agencies? We find in so many areas that there is turf fighting and that nobody likes to come forward and say, "Well, we have problems."

But what kind of cooperation are you getting from the other agencies in this matter?

Mr. KEATING. Mr. Chairman, the cooperation has been very good, and I share with you your cooperation about turf concerns, and that does exist. But since my coming aboard some 6 months or so ago, and since the convening under Mr. Queen's direction of this Bank Secrecy Act advisory council, we brought all these parties together; we have asked for their input and advice in the drafting of audit procedures, as well as this booklet, which is going to be circulated to the banking community so we don't—we are not flooded with CTR filings that are not necessary. I think the relationship is very good.

I must say that I have been tasked as the chairman of the Southwest border initiative, and bringing that crowd together is a far more difficult task than to bring this crowd together. I think these people are working well together, and I think there will be some substantial improvements, as I think we have seen some substantial improvements during the last 6 to 8 months.

Chairman ROTH. Let me ask you, as I mentioned earlier, one of my principal concerns has been the lack of training, the lack of standardization of procedures in making the people that came before us have a full understanding of the law and the requirements, and it was sort of a mechanical, at best, operation that they say is not significant.

Do you feel that not only the people that serve on your interagency council understand them, but when are we going to get standard procedures in this area of training for those on the frontline?

Mr. KEATING. Let me have Mr. Queen answer that, Mr. Chairman, if I may.

Mr. QUEEN. Mr. Chairman, the standardized procedures to set minimum standards are in place and are being used. To the best of our knowledge, we, obviously, like the GAO practitioners, are not physically able to go out on each of the examinations to satisfy ourselves that each examiner is following.

Chairman ROTH. What about the training? One of the weaknesses, one of the deficiencies was that there was really no training in this area. What has been done in that area?

Mr. QUEEN. There is a twofold problem in that area, Mr. Chairman. In the past, there was a delegation by the examining agencies to the examiners in the field, an excessive degree of discretion to determine what constituted a violation, even to the extent of passing judgment on whether it was willful and warranted, even referral to the agency's own headquarters.

But doing that required a heightened standard of training that really should not have been placed on the examiner. We have eliminated that and withdrawn from the examining agencies the authority to delegate referral authority down to the field.

Having said that, we then applied to those examiners standardized procedures which are clearly and, I believe, simply, in plain English, spelled out as to what the minimum checks must be in order to check for bank secrecy compliance, which is now mandatory, not an optional check for the auditors in the field. Properly followed, that will reveal possible violations.

The examiners, all the examining agencies that are a member of the advisory group have committed themselves to reporting to the Treasury Department all but the most de minimis violations.

I think that and the current study we have underway to come up with equivalent standards for reporting to Treasury will substantially reduce the problem that I think you are quite justifiably concerned about.

Mr. KEATING. Mr. Chairman, I might postscript what Mr. Queen has said by adding that we look to this advisory committee to be a part of the solution to problems like that, to identify them and report back after a target date is set for resolution.

For example, Mr. Anderson mentioned the problem with written requests for access by law enforcement to Customs data. That matter has been addressed, and we are, as Mr. Queen indicated, establishing terminals for access in the field by IRS, and the Customs computers in the field will permit law enforcement access from the field level directly and not by filling out papers and sending it from the field to Washington.

So these are matters that have come up, have been brought to the attention of the advisory group and, hopefully, will be resolved.

Mr. QUEEN. We have also, I might add, revised and, I believe, simplified and streamlined the dissemination guidelines that I

think will improve the ability of Customs to pass judgment on what should and should not be disseminated outside the agency.

Chairman ROTH. Mr. Rinzel.

Mr. RINZEL. Thank you, Mr. Chairman.

Mr. Keating, you indicated that the new regulations under consideration will require recordkeeping for purchase of cashier's checks at some amount. Do you know what the dollar level is going to be, or is that undecided?

Mr. KEATING. Mr. Rinzel, the contemplated dollar amount for purchases of instruments is $3,000. We will go out for public comment in response to a concern previously expressed by Senator Roth. If the public comment indicates that the law enforcement utility does not bear any relationship to the burden upon the private industry, we will not be forthcoming with that regulation.

We are, however, informed by law enforcement that a regulation like this, similar to a measure which has been introduced in the Congress, will be tremendously helpful to our money laundering investigations.

We expect that regulation to be issued within the next 30 days for public comment.

Mr. RINZEL. That certainly would have a significant effect on the smurfing problem, I would expect.

Mr. KEATING. That, Mr. Rinzel, is the reason, or one of the reasons for the proposed regulation. I might say that the comment of the banking community and the comments of the enforcement community will be weighed very carefully before that regulation is formally implemented.

But we are attempting to address what has become a serious problem, and that is, the structuring of these transactions to avoid the reporting requirement.

Mr. RINZEL. Would you have any comment on some of the proposed legislation on money laundering that is pending in the Congress that would give the Treasury Department summons authority? Can you explain to us why you think that is a good idea, what kind of law enforcement problems Treasury has run into, if any, in the absence of such authority?

Mr. KEATING. Mr. Rinzel, I will harken back to the comments that were made by Mr. Anderson, that the IRS is charged with responsibility to investigate upward of possibly 4,500 financial institutions which are not subject to examination by any Federal regulatory body.

Those need to be investigated, and at the present time, our ability to examine those institutions is based on voluntary cooperation No. 1; or No. 2, a formal grand jury investigation.

As you know from your experience at the Justice Department, sometimes grand jury investigations are very difficult to do. Sometimes that is not only labor intensive and time-consuming, but it is not practical. We think to grant summons authority which would be delegated only to the highest levels, which would carefully preserve legitimate privacy interests, which would be used solely for the purpose of investigating preliminary allegations of misconduct involving these sorts of violations for these noncovered financial institutions will be a benefit to the law enforcement community and a benefit to the entire country.

We certainly hope that that measure passes.

Mr. RINZEL. Thank you, Mr. Chairman. I have no further questions.

Chairman ROTH. One final question. It appears that there is more compliance with the law, for whatever reason. Do you think the criminals have diverted their money laundering to other approaches, to other techniques, which is so typical?

Mr. KEATING. I would say if we had a lot more institutions and a lot more individuals behind bars as a result of this statute and as a result, hopefully, if passed as a result of the money laundering substantive criminal offense, then perhaps you might see some shifting to other camouflage activity.

At the present time, I am afraid that the practice is still very common and very serious.

Chairman ROTH. I agree with that analysis. We have heard some rumors, some speculation that efforts are being diverted into buying into legitimate businesses. Have you had any indication of that?

Mr. KEATING. Certainly, Mr. Chairman, that occurs. And that will continue to occur. I would, of course, like to see more emphasis on that aspect following the passage of a subsequent money laundering statute. I think it is just part of the mix of money laundering activity.

Chairman ROTH. But you have no evidence that that is happening in any major way now?

Mr. KEATING. No, I do not.

Chairman ROTH. Mr. Queen, would you care to comment?

Mr. QUEEN. I would be glad to.

There have been, obviously, in investigations that have been completed to date that result in indictments by the Organized Crime Drug Enforcement task forces, examples of money laundering operations that use front companies.

That really raises two things. First of all, the Bank Secrecy Act really is not fully equipped to address the problem of when a business is purchased for the purpose of acting as a front, because of course, the businesses that are purchased are the kind qualified to be under the exempt list, and hence, circumvent the act. It really underlines the need for the administration's money laundering bill, which goes the next step and addresses a big gap in the law, and that is that today, money laundering is not a crime.

The only violation that we have available to us is noncompliance by the banks or individuals who conspire to assist in noncompliance with the Bank Secrecy Act and it is really, in effect, a reporting statute.

The kind of front company infiltration that you raise, I think, will be adequately addressed in the money laundering act.

Chairman ROTH. I sympathize with your statement. I, as you know, have introduced legislation to make it a crime. I would hope that we could get some action on it, because I think it would strengthen your position.

Gentlemen, if you will continue to follow this, because we think that money laundering is a most important part of our problem, and that this is one chance we have of breaking down the serious problems of drugs and is one of the weapons we have in this area.

I do want to particularly urge you, Mr. Keating. You have been there only a brief time, but next time, we really hope that you will be able to report some real progress.

If you have any problems with turf fights and other agencies not fully cooperating, I would personally like to know that.

Mr. KEATING. Very well.

Chairman ROTH. Because the time for action has passed, and we look forward to working with you on this most critical problem. Thank you for being here.

The subcommittee is in recess.

[Whereupon, at 11:04 a.m., the subcommittee was recessed, subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

United States General Accounting Office
Washington, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 10:00 a.m., EST
June 12, 1986

STATEMENT OF

WILLIAM J. ANDERSON, DIRECTOR

GENERAL GOVERNMENT DIVISION

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ON THE

DEPARTMENT OF TREASURY'S IMPLEMENTATION

OF THE BANK SECRECY ACT

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the results of our review of the Bank Secrecy Act. As you requested, we reviewed the Department of the Treasury's management of the Act and studied how law enforcement agencies use the Act and the financial data which it generates.

Mr. Chairman, I would like to briefly summarize our review results, and then discuss them in more detail. Most importantly, we found that:

--Treasury began taking a more active role in implementing the Act following the February 1985 conviction of the Bank of Boston for criminal violations of the Act. Since then, Treasury has taken some actions to improve compliance with and enforcement of the Act. However, opportunities exist for further improvements. In particular, Treasury headquarters needs more information about how IRS, Customs, and the financial regulatory agencies are administering the Act and how law enforcement agencies are using data generated under the Act.

--In Florida and California, the locations we visited, the Act and the financial data it generates are being used by law enforcement agencies to disrupt money laundering and drug trafficking operations.

--Recent circuit court rulings have highlighted an inconsistency between the Act and its implementing regulations regarding multiple, structured currency

transactions intended to avoid the reporting requirements of the Act. Clarification of this inconsistency is needed.

In 1970, Congress enacted the Currency and Foreign Transactions Reporting Act, commonly called the Bank Secrecy Act, to help law enforcement agencies identify the sources, volumes and movements of U.S. currency being transported into or out of the country or being deposited in financial institutions. Treasury has delegated most of the Act's day-to-day operations to the Internal Revenue Service, the U.S. Customs Service, and a number of federal financial regulatory agencies, but the Secretary of the Treasury retains overall responsibility for implementing the Act. Within Treasury headquarters, this responsibility is assigned to the Assistant Secretary for Enforcement. In July 1985, Treasury established the Office of Financial Enforcement under the Assistant Secretary to assist in overseeing implementation of the Act. This action formalized the role of staff already reporting to the Assistant Secretary. As of June 1986, two of the office's four authorized professional staff positions were filled.

During our review, we interviewed officials and reviewed records at Treasury, Customs, and IRS. We also conducted interviews and case file reviews at federal law enforcement agencies in Florida and California to determine how law enforcement agencies use the Act. Our field work was conducted from April 1985 to February 1986.

We testified before this Subcommittee in October 1985 on our evaluation of the compliance examination program. At that time, we concluded that the financial institution examination procedures used by the five depository institutions' regulatory agencies could be strengthened, and that Treasury and the federal financial regulatory agencies could better coordinate with one another. In June 1985, Treasury organized an interagency working group to modify and improve compliance examination procedures. As of June 1986, Treasury and the agencies had agreed on some changes to the examination procedures. Other issues are still under consideration by the working group.

Treasury has also increased the number of reviews of noncompliance with the Act and imposed more civil penalties for noncompliance. Treasury officials told us that most of the 76 civil reviews opened during 1985 resulted from voluntary admission of possible noncompliance by financial institutions. In 1986 Treasury began working with Justice to develop ways to prevent structured transactions designed to avoid the Act's reporting requirements.

Although Treasury's recent actions should help improve implementation of the Act, opportunities will still exist for improvement. Treasury headquarters is still not obtaining adequate information about the way IRS, Customs, and the financial regulatory agencies are carrying out their delegated duties. In short, the management controls over these activities need strengthening. I will now discuss some of these in more detail.

TREASURY NEEDS MORE INFORMATION ABOUT COMPLIANCE EXAMINATION EFFORTS

Treasury lacks detailed information about the number of institutions examined, the number found in violation, and the nature of the violations detected. Although the Act's implementing regulations require periodic reporting from the regulatory agencies and IRS on their efforts to assure compliance, not all agencies submit these reports to Treasury and the reports that are submitted are not timely or consistent. Because of these inconsistencies we were unable to determine the nature or extent of the violations identified by the examining agencies. We could not determine the number of institutions examined and/or how many had violations among those examined by the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Securities and Exchange Commission. Two of these agencies do not submit periodic reports to Treasury, one did not report on calendar year 1985, and one had not, as of April 30, 1986, submitted its fourth quarter 1985 report.

CIVIL ACTIONS AGAINST FINANCIAL INSTITUTIONS INCREASED IN 1985

Between 1970 and 1985, Treasury assessed civil penalties of about $800,000 against seven financial institutions. During 1985, Treasury began conducting more civil reviews and imposing more civil penalties for noncompliance. Treasury officials told us that most of the financial institutions under review came forward voluntarily to Treasury, as a result of publicity

generated after the Bank of Boston pled guilty to violations of the Bank Secrecy Act in February 1985. In 1985, Treasury opened civil reviews of noncompliance by 76 financial institutions. Eleven of the 76 institutions were assessed civil penalties amounting to $5.1 million during 1985; one review was closed without a civil penalty being assessed. The remaining 64 civil reviews are still pending.

TREASURY DOES NOT MONITOR CUSTOMS' ENFORCEMENT EFFORTS

Treasury does not monitor Customs' enforcement efforts with respect to the reporting of transportation of currency or monetary instruments in excess of $10,000 into or out of the United States. Customs does not routinely report to Treasury on its enforcement efforts, although the Act's implementing regulations require Customs to do so. As a result, Treasury does not know how often violations are identified by Customs. Although our review indicated that Customs identified numerous violations and makes extensive use of the seizure and forfeiture provisions of the Act, Treasury does not know the extent of that use, the frequency and value of seizures for violations of the Act, or the remission or mitigation decisions made by Customs concerning those seizures. Such information would enable Treasury headquarters to measure the effectiveness of Customs' enforcement efforts.

TREASURY DOES NOT OBTAIN INFORMATION ON THE USE OF THE ACT FOR CRIMINAL PROSECUTIONS

Treasury's Office of Financial Enforcement could not provide us with information about individuals or businesses which have been prosecuted for violations of the Bank Secrecy Act or as a result of investigations which used Act data. Such information would help Treasury to determine how well the Act's objectives are being achieved.

TREASURY'S EFFORTS TO COLLECT DATA REQUIRED UNDER THE ACT

Treasury has delegated the day-to-day operating authority for collecting Act data to IRS and Customs. The Acting Director, Office of Financial Enforcement, told us that Treasury headquarters has not actively managed and coordinated the collection process at IRS and Customs and that Treasury's involvement has been on an ad hoc basis. He added that, typically, Treasury was informed by IRS and Customs of decisions already made which affected the collection process rather than being involved in the decision making. By establishing the Office of Financial Enforcement, Treasury recognized that it should be more involved in coordinating the data collection activities of IRS and Customs. Increased involvement by Treasury headquarters should alert Treasury management earlier about management problems, such as backlogs of unprocessed reporting forms.

TREASURY DOES NOT MONITOR CUSTOMS' ANALYSES OF THE ACT'S DATA

Treasury has delegated to Customs the task of analyzing Act data for use by the law enforcement community. Treasury does not routinely receive management information from Customs and has not given Customs guidance in planning the types of studies or methodologies to be pursued. Treasury has not systematically monitored the usefulness of analytical reports, and until August 1985, Customs had no formal method of receiving feedback on the usefulness of reports. More involvement by Treasury headquarters in coordinating Customs' analytical activities is needed to assure that Customs' analyses are meeting the needs of the law enforcement community. Law enforcement personnel we interviewed in California told us that, although they considered some of the analytical reports they had received to be significant and helpful, most of the reports were of limited value and retained only as general background information.

DISSEMINATION GUIDELINES NEED TO BE UPDATED BY TREASURY

Treasury delegated to Customs the authority to disseminate Act data to federal, state, local, and foreign law enforcement agencies. The number of requests for data has been increasing since 1982, and this increase has accelerated since 1985. Despite increased requests, use of Act data by law enforcement agencies has been hindered by the current dissemination guidelines. FBI, DEA, and Customs officials told us that revised guidelines would facilitate access by allowing them to request

some data at the field level rather than from Customs headquarters. We recommended this revision in our 1981 report. Customs proposed revised dissemination guidelines in 1982 and again in 1986. As of May 28, 1986, the revisions were still being reviewed by Treasury.

LEGAL ISSUES RELATING TO INTEPRETATION OF REPORTING REQUIREMENTS

In addition to the matters I have already discussed relating to Treasury's implementation of the Act, our review surfaced an unresolved legal issue. Under present law, money launderers are successfully prosecuted in some courts for causing financial institutions not to file reports on multiple currency transactions totaling more than $10,000 or for causing financial institutions to file incorrect reports. In such cases, defendants are charged with violations of 18 U.S.C. 2 (aiding and abetting or causing another to commit an offense) and 18 U.S.C. 1001 (concealing from the government a material fact by a trick, scheme, or device). For example, in United States v. Tobon-Builes, the Court of Appeals for the Eleventh Circuit upheld a conviction under 18 U.S.C. 1001 where the defendants had engaged in a money laundering scheme in which they had structured a series of currency transactions, each one less than $10,000 but totalling more than $10,000, to evade the reporting requirements.

In contrast, the Court of Appeals for the Ninth Circuit in a recent decision (United States v. Varbel) overturned Federal District Court convictions of suspected money launderers. The Court of Appeals stated that Treasury's regulations are not as broad as the Act itself. Treasury and the Justice Department are jointly considering solutions to this problem.

USE OF THE ACT AND ITS DATA BY LAW ENFORCEMENT AGENCIES

Finally, in Florida and California, the two locations we visited, the Act and its data are being used to disrupt money laundering and drug trafficking operations. In these two locations, IRS and Customs are the primary users of the Act and its data. Other agencies, such as the FBI and DEA, use the Act and its data in investigations and prosecutions for crimes other than currency violations.

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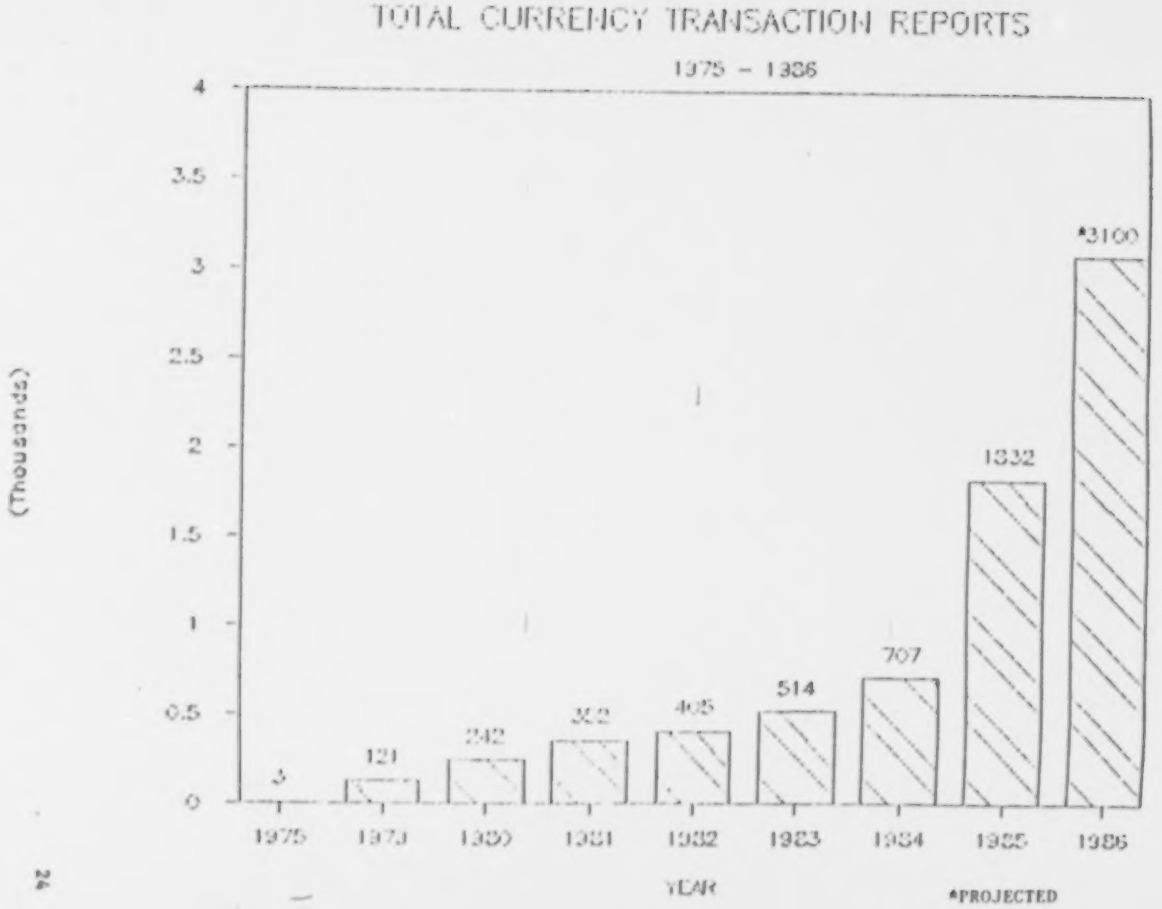
These findings have led us to recommend that the Secretary of the Treasury, through the Assistant Secretary for Enforcement, establish stronger internal management controls aimed at providing more and better information about the agencies to which Treasury has delegated authority to implement the Act. Such information would allow the Secretary to better gauge how these agencies are fulfilling their delegated responsibilities and thereby identify needed improvements.

Mr. Chairman, this concludes our prepared testimony. We would be happy to answer any questions you may have on our work.

CURRENCY TRANSACTION REPORTS
(THOUSANDS OF FORMS 4789)
THOUSANDS
300
280
260
240
220
200
180
160
140
120
100
80
60
40
20
0
63
83
76
127
129
100
139
134
158
183
205
225
278
255
230
255
200
JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC JAN FEB MAR APR
1425 - 1236


TOTAL CURRENCY TRANSACTION REPORTS
1975 - 1986
(Thousands)
4
3.5
3
2.5
2
1.5
1
0.5
0
3
121
242
322
425
514
707
1332
*3100
1975
1979
1980
1981
1982
1983
1984
1985
1986
YEAR
*PROJECTED

STATEMENT OF THE HONORABLE

FRANCIS A. KEATING, II

ASSISTANT SECRETARY OF THE TREASURY (ENFORCEMENT)

BEFORE THE COMMITTEE ON GOVERNMENTAL AFFAIRS,

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

UNITED STATES SENATE

June 12, 1986

I appreciate the opportunity to testify before the Committee today on the subject of Bank Secrecy Act enforcement. We welcome the continued interest of this Committee in this complex subject and the analysis of the General Accounting Office of our programs.

At the outset, let me express to this Committee my commitment and determination to continue to improve the utilization of the Bank Secrecy Act as a major weapon against drug trafficking and all other forms of organized crime. I want to highlight to the Committee the initiatives that Treasury has taken over the last year to improve Bank Secrecy Act enforcement. I believe that much progress has been made towards our shared goal of efficient and effective Bank Secrecy Act enforcement. We are proud of our efforts, but we also recognize that improvements can be made.

Of course, I am not in a position today to respond to the specific criticisms in the GAO report. However, I want to assure the Committee that we will thoroughly evaluate all the recommendations in the GAO report and take appropriate remedial steps where necessary. I would be happy to appear again before the Committee or to respond in writing after we have had time to evaluate the report. In the future, I also would be pleased to discuss the steps we have taken to implement the recommendations of the report.

The enforcement initiatives that I will discuss today fall into four general categories:

1. Improved coordination with and supervision of the agencies to which Treasury has delegated Bank Secrecy Act enforcement authority. This includes issuance of standardized Bank Secrecy Act examination procedures and establishment of the Treasury Bank Secrecy Act Enforcement Advisory Board and Working Group.

2. Revision of the Bank Secrecy Act regulations and promotion of legislative improvements to the Act.

3. Additions to and reorganization of Treasury resources dedicated to Bank Secrecy Act compliance. Treasury has established the Office of Financial Enforcement to develop enforcement policy and supervise the enforcement of the Bank

Secrecy Act. The Internal Revenue Service has established a separate, greatly enlarged unit at the Detroit Data Center to conduct Bank Secrecy Act operations, including the processing of Currency Transaction Reports (CTRs). IRS has succeeded recently in eliminating the backlog in CTR processing.

4. Assessment of civil penalties against financial institutions for past Bank Secrecy Act non-compliance.

1. Improved Supervision and Coordination with the Bank Secrecy Act Enforcement Agencies

First, I would like to mention the measures Treasury has taken to improve its supervision of and coordination with the agencies to which it has delegated Bank Secrecy Act responsibilities. A primary initiative in this area was standardization of the examination procedures used by the various agencies, including the Internal Revenue Service, the Securities Exchange Commission and the bank supervisory agencies, for compliance examinations.

As many of the civil penalty cases which we have dealt with and the Bank of Boston case have demonstrated, the procedures used by the examiners in the past were not sufficient to ensure that violations of the Act would be detected. These procedures needed to be improved, and a number of other issues also had to be considered in order to make compliance examinations more

effective. These issues include the maintenance of detailed workpapers, the sharing of information among bank supervisory agencies, and the uniform application of the examination procedures. To address these matters, we held a series of meetings with the Federal bank supervisory agencies and others who have an interest in improving the procedures used by examiners for checking the compliance of financial institutions with the Bank Secrecy Act. As a result of these consultations, we issued final instructions on examination procedures to the supervisory agencies in April of this year. It is axiomatic that improved and aggressive examination will foster improved compliance.

Our experience in the improvement and standardization of examination procedures made clear to me the need for an ongoing interchange of ideas between Treasury and the agencies to which Treasury has delegated enforcement responsibility. Therefore, I convened a permanent Treasury Bank Secrecy Act Enforcement Advisory Group, consisting of supervisory level representatives of Treasury, Customs, IRS, the SEC, and the bank supervisory agencies. This group is chaired by the Deputy Assistant Secretary (Law Enforcement). The group had its first meeting in May and will meet monthly as needed. We will use this forum to address mutual enforcement problems and to discuss Treasury policy initiatives. The Advisory Group has established a Bank Secrecy Act Working Group under its auspices to work on specific tasks assigned by the Advisory Group.

One of the first tasks assigned to this Working Group is to revise the standard procedures for referral of penalty cases to Treasury. A second task is to work with the Office of Financial Enforcement to develop a pamphlet for distribution to all bank financial institutions on procedures for exempting customers from the reporting requirements of the Bank Secrecy Act. The first draft of this pamphlet is due June 18th.

As you are aware, under Treasury regulations, banks may exempt certain customers from the reporting requirements and may request special exemptions from Treasury on others. Treasury does not require banks to exempt any customers. In an abundance of caution in the last year, many banks have greatly reduced the number of exemptions. This has resulted in a large volume of Currency Transaction Reports being filed on customers eligible for exemptions. Filing on exemptible transactions is expensive to the banks and Treasury, and produces information of little or no utility. We hope that the information in this pamphlet will enhance banks' understanding of the exemption process and encourage the judicious granting of exemptions to our mutual advantage.

In the future, among the tasks of the Working Group will be to develop guidelines for more comprehensive, standard periodic reports to Treasury on the agencies' Bank Secrecy Act enforcement. In this way, Treasury will be better advised of the strengths and weaknesses of the agencies' programs and will be

able to direct remedial measures. The group also will develop a formal published ruling system for dissemination of interpretations of the Bank Secrecy Act and the Bank Secrecy Act regulations.

2. Regulatory and Legislative Initiatives

Since last year, we have strengthened the Treasury Bank Secrecy Act regulations in several respects and currently have under discussion internally a major regulatory revision package. On May 7, 1985, regulations became effective that designated casinos as financial institutions subject to Bank Secrecy Act reporting and recordkeeping requirements. As evidenced in hearings by the President's Commission on Organized Crime last summer, money laundering through casinos may have been even more widespread than once thought. We believe that the new regulations have reduced the attractiveness of the use of casinos for money laundering.

A regulatory amendment pertaining to international transactions was published as a final rule last summer. Under the regulations, Treasury is able to require a financial institution or a selected group of financial institutions to report specified international transactions, including wire transfers, for a defined period of time. We envision that this will require reporting of transactions with financial institutions in designated foreign locations that would produce information

especially useful in identifying individuals and companies involved in money laundering and tax evasion. The Internal Revenue Service's Criminal Investigation Division has sent to my office for approval a pilot program for the initial use of this regulatory authority. This plan is currently under review.

In February, Treasury circulated a major regulatory revision package to the bureaus within Treasury with Bank Secrecy Act responsibility - Customs, IRS, the Office of the Comptroller of the Currency - and to the Justice Department. This package is complex and comprehensive and has undergone much revision and scrutiny. Treasury has tried to strike the proper balance between law enforcement needs and the need to avoid excessive burdens to financial institutions. We anticipate that these regulations will be published as a proposed rule within the next month or so.

Among the highlights of the proposed regulatory revisions are the following:

° Treasury proposes to expand the types of businesses that banks can unilaterally exempt from currency reporting without a special exemption request to Treasury. The new types of businesses are public utility companies, regularly scheduled transportation companies and organizations that have been granted § 501(c)(3) status by the IRS.

° For the first time, the regulations will specifically include the instruction on the Currency Transaction Report that a financial institution must, for reporting purposes, aggregate all currency transactions of which it is aware that occur in a single day.

° There will be a proposed new reporting requirement to address the well-known problem of smurfing, whereby individuals take cash from illegal sources in amounts less than the $10,000 reporting threshold to various banks and purchase a number of cashier's checks. The checks are then deposited to an account and often wired abroad. We will propose a requirement that banks maintain records of each cash purchase of a monetary instrument, e.g. a travelers check, bank or cashier's check, in excess of a specified amount.

° We propose to require customers to certify on a Treasury form the accuracy of the information on which a bank is basing an exemption of the customer's transactions from currency reporting. The information includes the nature of the customer's business and the type, frequency and dollar amount of regular cash transactions.

With respect to legislative initiatives, Treasury worked with the Department of Justice to develop S. 1335, the "Money Laundering and Related Crimes Act". Besides a substantive criminal offense for money laundering, the bill contains a number of critical revisions to the Bank Secrecy Act.

Under S. 1335 the Secretary for the first time would be given summons authority both for financial institution witnesses and documents in connection with Bank Secrecy Act violations. This authority was among the legislative recommendations in the October, 1984 report money laundering to the President's Commission on Organized Crime.

Under the proposal, the Secretary would be able to summon a financial institution officer, or an employee, former officer, former employee or custodian of records, who may have knowledge relating to a violation of a recordkeeping or reporting violation of the Act and require production of relevant documents. This authority is essential both to investigate violations and to assess the appropriate level of civil penalties once a violation is discovered.

This authority is especially needed with respect to miscellaneous non-bank financial institutions, such as casinos and certain companies which transfer funds domestically and internationally. These institutions number in excess of 3,000. The responsibility for compliance review of these institutions has been delegated to the Internal Revenue Service. Currently, however, the IRS summons authority is restricted to Title 26 purposes. Therefore, in examining these institutions, IRS must rely on voluntary cooperation. The cooperating financial institutions frequently request a summons as a means of protecting themselves from suits by their customers.

In addition to the Administration's money laundering bill, there is another legislative initiative on which we have urged early and favorable action. This bill is S. 2306 (H.R. 4753), introduced by Senator D'Amato and in the House by Congressmen Pickle and Schulze.

This bill would prohibit structuring of currency transactions to avoid the $10,000 currency transaction reporting requirement. Recent decisions in three Federal Circuits have made it clear that the current law is inadequate to sustain consistent prosecutions for structuring. The proposal would subject to the criminal and civil sanctions of the Bank Secrecy Act any person who structures transactions to avoid the currency reporting requirements, or who causes a financial institution not to file a required report.

The bill also provides seizure and forfeiture authority for currency related to a domestic (CTR) reporting violation or interest in property traceable to the currency. Currently, there is forfeiture authority only for cash and monetary instruments involved in violations of the reporting requirements for internationally transported monetary instruments.

Mr. Chairman, the Bank Secrecy Act has proven beyond all doubt its effectiveness as a law enforcement tool against drug trafficking, organized crime, and the illicit financial activity that supports it. The investigations that the Departments of Justice

and Treasury have conducted, particularly those under the President's Organized Crime Drug Enforcement Task Force program, have relied upon the Bank Secrecy Act data and the analyses of these data that Treasury has prepared. In approximately three years of full operation, these Task Forces have initiated 1,350 cases and resulted in the indictments of 8,649 individual, 3,678 of which have been convicted.

While our progress has been substantial, we are under no illusions concerning the extent of the drug and organized crime problem that continues to plague our society. In my view, the amendments to the Bank Secrecy Act which I have described are critically needed, so that we can strike a more effective blow against these forms of criminal activity.

3. Commitment and Reorganization of Treasury Resources

In July, 1985, the Treasury Department established the Office of Financial Enforcement as the unit primarily responsible within my office for administering the Bank Secrecy Act. The establishment of this office provided a focal point for Bank Secrecy Act related activity within the Treasury Department and acknowledged the increasing importance of the Act in Treasury's law enforcement efforts. The office has broad responsibilities for the compliance activities of all agencies that have been delegated responsibilities under the Act, and there has been an increased commitment of staff resources to the office.

In April, Robert J. Stankey, Jr., who had been acting as Director of the Office of Financial Enforcement, retired. Mr. Stankey was a familiar figure to this Committee and more than any other person was responsible for the development of the Bank Secrecy Act into an effective law enforcement tool.

We have been interviewing many well-qualified replacements for Mr. Stankey and hope to have a new permanent Director of the Office of Financial Enforcement in the near future. One of the first tasks I will assign to that person is to take all appropriate measures to follow up on the GAO report.

Another significant development has been a very large commitment of resources by IRS, particularly with respect to the processing of Currency Transaction Reports. As you know, following the publicity surrounding the Bank of Boston case there was a dramatic upsurge in the filing of Currency Transaction Reports. As you can see from the attached charts, at the present rate, there will be an estimated 3 million CTR's filed this year. This compares with approximately 1.8 million filed in 1985 and 700,000 in 1984. Unfortunately, the unexpected upsurge created a processing backlog for a number of months.

The backlog is now eliminated. All CTRs received through April 1986 have been processed. Data from over 2.4 million CTRs has been sent to the TECS database this fiscal year. The Detroit Data Center has utilized a combination of both permanent and

temporary employees and contract transcription support to process these forms. CTRs received in May 1986 are currently being processed on schedule. The backlog of unprocessed CTRs has been eliminated.

The function of granting special exemptions to bank customers from the reporting requirement was also delegated to IRS by my office late last year. All exemptions were previously granted by the Office of Financial Enforcement and its predecessor office. This function is also being carried out by the Detroit Data Center. Presently seven persons have been assigned responsibility for review of exemptions.

4. Civil Penalty Assessment

I also would like to discuss Treasury's imposition of civil penalties against financial institutions for past non-compliance. In the wake of the publicity surrounding the Bank of Boston case, and in good measure as a response to Congressional hearings, including those held by this Committee, over sixty banks and bank holding companies have come forward to Treasury with past violations of the Bank Secrecy Act. Some have come forward as a result of bank regulatory examinations, particularly those of the Comptroller of the Currency. To date, eighteen civil penalties have been assessed under 31 U.S.C. § 5321, ranging from $75,000 to $4.75 million in the case of Bank of America.

Other cases are under review, and we anticipate that additional penalties will be assessed shortly. In many instances, the cases are taking several months to conclude because of the time required for banks to conduct an examination of past compliance and to reconstruct past unreported transactions for late-filing of Currency Transaction Reports.

We continue to encourage financial institutions to come forward to disclose past violations. Non-volunteer banks will be dealt with more severely. Banks that become aware of past non-compliance and make no effort to contact Treasury are running a serious risk. We are now working to uncover these non-volunteers. This effort will ultimately depend heavily on the support of the bank supervisory agencies.

We believe that Treasury's rigorous enforcement of the Bank Secrecy Act, including the imposition of publicly announced, substantial civil penalties, where appropriate, has contributed to enhanced awareness of the requirements of the Bank Secrecy Act. As a consequence, and as confirmed in our dealings with many banks and the increased volume of Currency Transaction Reports, we believe that overall compliance has improved and that compliance has become a high priority with many major financial institutions.

In closing, I want to emphasize that this is a time of activity and innovation in Treasury's Bank Secrecy Act program. I am

pleased to have GAO's input into this ongoing process. I am firmly committed to an aggressive enforcement policy that ensures that all information required under the Bank Secrecy Act is retained or reported. At the same time, I am also committed to the efficient and effective use of that information.

Mr. Chairman, I would like to acknowledge the substantial contribution that this Committee has made to our progress in improving the administration and enforcement of the Bank Secrecy Act. I look forward to continuing to work with you and the other members of this Committee as we seek to further our progress.

This concludes my prepared remarks. I would be happy to address any questions the Committee may have.

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